

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Timothy Daniel McGuire, *et al.*,

Plaintiffs,

v.

Case No. 05-40185

Royal Oak Police Sgt. Douglas Warner, *et al.*,

Honorable Sean F. Cox

Defendants.

---

**MEMORANDUM ORDER- JENNIFER HERNANDEZ**

During the course of an evidentiary hearing on November 12, 2009, Defense Counsel sought to call this Court's Docket Manager, Ms. Jennifer Hernandez, as a witness at the hearing.

As a preliminary matter, as stated on the record on November 12, 2009, it does not appear that Ms. Hernandez was properly served.<sup>1</sup>

When asked to identify what personal knowledge Ms. Hernandez possibly has of any disputed issue, Defense Counsel indicated that he wished to call Ms. Hernandez to have her testify that, during the course of settlement negotiations on the morning of August 19, 2009, Mr. Seward stated to Ms. Hernandez that he wished to speak with the Court after observing Plaintiffs and/or their family members speaking with a member of the press. Mr. Seward further indicated he wished Ms. Hernandez to testify as to Mr. Seward's "upsettedness" when he made that

---

<sup>1</sup>FED. R. CIV. P. 45 (b)(1) provides that a subpoena requiring a person's attendance must be served along with the appropriate witness fee. Ms. Hernandez was approached by Defendants' process server in this Court's chambers on November 2, 2009, and was handed a subpoena to appear in this Court on November 12, 2009, along with a \$40.00 check made payable to "Hon. Sean F. Cox." (See Ex. A to this Order, Original Copy in Vault).

request. Plaintiffs' Counsel then stated that Plaintiffs do not dispute those facts. Thus, Ms. Hernandez is not alleged to have any personal knowledge of any disputed facts in this matter.

Moreover, assuming *arguendo* that the above facts were disputed, Mr. Seward was able to testify to any requests he made on August 19, 2009, and whether or not he was upset when he made such requests.

Accordingly, pursuant to FED. R. EVID. 611, the Court concludes that any testimony by Ms. Hernandez would be irrelevant to the disputed issues in this matter and would be unnecessarily cumulative. The Court therefore DENIED Defendants' request to call Ms. Hernandez as a witness at the evidentiary hearing.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: November 17, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 17, 2009, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager

AO 88 (Rev. 12/06) Subpoena in a Civil Case

**UNITED STATES DISTRICT COURT**  
**Eastern District of Michigan**  
**Subpoena In A Civil Case**

Timothy Daniel McGuire and James Lee Joseph Ryan

v.

Officer Douglas Warner, et al.

Case Number: <sup>1</sup> 05-CV-40185

TO: JENNIFER HERNANDEZ  
 U.S. District Court  
 257 T. Levin U.S. Courthouse (Judge Cox's courtroom)  
 Detroit, MI 48226

☒ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY United States District Court T. Levin U.S. Courthouse 231 West Lafayette Detroit, MI 48226	COURTROOM #252 - Judge Sean F. Cox <hr/> DATE AND TIME THURSDAY, NOVEMBER 12, 2009 at 9:00 AM
---	---

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  T. Joseph Seward - Attorney for Defendants	DATE November 2, 2009
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER 33900 Schoolcraft Livonia, MI 48150      phone: (734) 261-2400	

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

DATE  
MANNER OF SERVICE  
PLACE  
PROOF OF SERVICE  
foregoing information

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

28595

CUMMINGS, McCLOREY, DAVIS & ACHO  
ATTORNEYS AT LAW  
33900 SCHOOLCRAFT ROAD  
LIVONIA, MI 48150  
CLIENT COST ACCOUNT

INDEPENDENT BANK  
BIRMINGHAM / BEVERLY HILLS OFFICE  
32800 SOUTHFIELD ROAD • BEVERLY HILLS, MI 48025  
74-265/724  
November 02, 2009

28595

MDA  
VIA C. ACHO, F.A.C.

Pay to the Order of:  
Hon. Sean F. Cox

Forty & 00/100

40.00

Signature: *Patricia A. Wilkerson*  
TWO SIGNATURES REQUIRED IF OVER \$600

VOID AFTER 180 DAYS

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

Security Features Included: Details on back.

028595 0724026521 0029 00906 5